

**AGENDA
ITEM NO.
8.a**

LAFCO *of Monterey County*

LOCAL AGENCY FORMATION COMMISSION
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KATE McKENNA, AICP
Executive Officer

DATE: March 29, 2010

TO: Chair and Members of the Formation Commission

FROM: Kate McKenna, AICP, LAFCO Executive Officer

**SUBJECT: CARMEL AREA WASTEWATER DISTRICT – “CARMEL HIGHLANDS FIRE STATION” SPHERE OF INFLUENCE UPDATE AND ANNEXATION OF A SINGLE 1.0± ACRE PARCEL (73 FERN CANYON ROAD; APN 241-073-002). THE PARCEL FRONTS HIGHWAY 1 AND FERN CANYON ROAD IN THE CARMEL HIGHLANDS APPROXIMATELY 250 FEET SOUTH OF THE INTERSECTION OF HIGHWAY 1, FERN CANYON AND CORONA ROADS. THE PURPOSE OF THIS PROPOSAL IS TO CONNECT THE FIRE STATION ON THE PARCEL TO THE WASTEWATER DISTRICT’S EXISTING WASTEWATER SYSTEM.
(LAFCO FILE 10-01)**

SUMMARY OF RECOMMENDATIONS:

It is recommended that the Commission conduct a continued public hearing and adopt the attached resolution (Attachment 2):

1. Finding that the proposed development is exempt from environmental review pursuant to Section 15319 of the California Environmental Quality Act (CEQA) Guidelines;
2. Approving an update of the Sphere of Influence of the Carmel Area Wastewater District;
3. Approving the proposed “Carmel Highlands Fire Station” Annexation (APN 241-073-002) to the Carmel Area Wastewater District, and
4. Waiving conducting authority protest proceedings per Section 56663(c) of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

EXECUTIVE OFFICER'S REPORT:

Purpose and Scope of the Proposal

The purpose of the proposal is to allow a single developed parcel, the Carmel Highlands Fire Protection District's Fire Station, to connect to the Carmel Area Wastewater District (CAWD) and discontinue the existing underground septic system. The parcel is outside of the Sphere of Influence of CAWD. The Fire Station is immediately adjacent to a wastewater line constructed in 2005 to serve the Highlands Inn, the Tickle Pink Inn, and eleven residential parcels.

The Carmel Highlands is an area which has experienced severe problems with onsite septic systems and contaminated water wells. At the direction of the Regional Water Quality Control Board, the County of Monterey has developed a wastewater management plan for the area. While the implementation of this plan may involve the expansion of the CAWD throughout much of the Carmel Highlands, LAFCO approved annexations in the area in both 2004 and 2009 to alleviate existing or potential health hazards. The Fire Protection District now wants to move forward due to the potential for health and safety problems related to the existing inadequate septic system. Both the Regional Water Quality Control Board and the County of Monterey Environmental Health Division support the Fire Station proposal as being consistent with the long-term solution to the area's wastewater problems. The Wastewater District has determined that adequate capacity exists to serve this parcel.

The annexation of a single parcel without additional development potential can be reviewed and approved under a categorical exemption from the California Environmental Quality Act.

Applicant / Property Owner / Property Owner Consent / Wastewater District Support

The Carmel Highlands Fire Protection District, the property owner and applicant, has submitted a proposal requesting this Sphere of Influence expansion and annexation. A "Consent to Inclusion of Property" form has been signed by the Fire Protection District and is on file with LAFCO. On January 28, 2010, the CAWD approved Resolution 2010-03 (Attachment 3) supporting the Sphere of Influence update and annexation.

Description of Parcel Proposed for Annexation

The 1.0± acre subject parcel is located between Highway 1 and Fern Canyon Road approximately 250 feet south of the intersection of Highway 1, Fern Canyon and Corona Roads. It is located immediately south of the parcel containing the Highlands General Store, Gas Station and Gallery, owned by Dan Keig (APN 241-073-001), that was conditionally approved for annexation to the Wastewater District in January 2009.

The property is developed as the Fire Station for the Carmel Highlands Fire Protection District. The Fire Station includes a community room which is available for meetings of local residents. The only other structure on the parcel is an

unplumbed storage building of approximately 100 square feet. There are no plans to locate any structures on the parcel except those needed for the public service activities of the Fire Protection District.

The Fire District plans to connect to the Carmel Area Wastewater District because of potential future environmental issues associated with the existing septic system and groundwater quality. The Fire Protection District is also concerned that adequate wastewater capacity be available if the Fire Station is needed as an emergency operation center in the case of a natural disaster.

Expansion of the Carmel Area Wastewater District in the Carmel Highlands

The present proposal would be the third Sphere of Influence amendment and annexation to the Carmel Area Wastewater District in the Carmel Highlands. These incremental steps have been supported by the County Environmental Health Division and the Regional Wastewater Quality Control Board as improvements to the area's wastewater deficiencies.

On June 28, 2004 LAFCO approved a Sphere of Influence Update and annexation to allow the Highlands Inn, the Tickle Pink Inn and eleven residential parcels within the Highlands Sanitary Association to be served by the Carmel Area Wastewater District (LAFCO File No. 03-15). On January 26, 2009 the Formation Commission conditionally approved a Sphere of Influence Amendment and annexation of three Carmel Highlands parcels to the Wastewater District (LAFCO File 08-07).

As an alternative to a Sphere of Influence amendment and annexation, LAFCO could approve the provision of wastewater services by contract or agreement outside CAWD's jurisdictional boundaries. I am not recommending this approach because: a) CAWD staff has indicated that the approval of a service agreement would create administrative difficulties, b) LAFCO has approved other small annexations to the CAWD in the Carmel Highlands and c) LAFCO anticipates additional requests for annexations to the CAWD in the area.

Sphere of Influence Analysis

A Sphere of Influence Update is requested because the Fire Station parcel is not in the Carmel Area Wastewater District's Sphere of Influence. This amendment is considered a minor Sphere of Influence amendment according to the criteria approved by the Commission on March 25, 2002.

The Commission must consider and prepare a written statement of its determination regarding four factors prior to approving a Sphere of Influence expansion (Government Code Section 56425[e]). These factors are discussed in Section 3 of the attached draft resolution (Attachment 2). These determinations support an expansion of the CAWD's Sphere of Influence.

The operations and boundaries of the Carmel Area Wastewater District were reviewed in the June 2006 Carmel Valley Municipal Service Review. This analysis did not disclose any deficiencies in CAWD's services or structure.

Annexation Analysis

The Commission must consider fifteen factors in the review of a proposal for annexation (Government Code Section 56668). These factors are discussed in Sections 5 through 19 for the attached draft resolution (Attachment 2). As outlined in the resolution, consideration of these factors supports the proposed annexation.

Land Use and General Plan Consistency

The parcel is located in the unincorporated area of the County. The Fire Station property is designated "Public/Quasi Public" in Monterey County's Carmel Area Land Use Plan. The current zoning is PQP-D(CZ) which allows for "Public and Quasi-Public" uses with Design Review in the County's Coastal Zone. The use of this parcel for a fire station is compatible with the land use plan and zoning designation.

Public Agency Referrals and Public Noticing

LAFCO referred the proposal to public agencies for review and comment on January 12, 2010. The application was scheduled and legally noticed for a February 22, 2010 hearing in the Monterey County Herald, on February 1, 2010. Notice of the hearing was also posted on the LAFCO website and at the County Government Center and LAFCO office, and mailed to all known interested agencies, organizations and individuals. At the February 22 meeting the Commission opened the public hearing, and continued the hearing to March 29, 2010. LAFCO, therefore, has fully complied with all requirements and procedures for public agency referrals and public noticing.

Wastewater District/County Tax Transfer

A "Zero" Property Tax Transfer was approved by the Monterey County Board of Supervisors on March 16, 2010 (Resolution No: 10-053) for this annexation to the Carmel Area Wastewater District. A copy of this resolution is on file in the LAFCO office.

Waiver of Conducting Authority Protest Proceedings

The affected territory meets the definition of "uninhabited territory" as defined by Government Code Section 56046 because there are fewer than 12 registered voters in the proposed annexation area. The Carmel Highlands Fire Protection District, the land owner and proposal applicant, has consented in writing to the application and the waiver of the protest proceedings. Attachment 2 contains the draft resolution which contains language waiving protest proceedings.

Plan for Services

Section 56653 of Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides an outline of what the Plan for Services is required to contain. The applicant, Carmel Highlands Fire Protection District, has provided information in the Justification of Proposal and Plan for Providing Services in their application materials.

The Plan for Services, as well as the entire application, is available for review in the LAFCO project file. LAFCO staff has reviewed the information and determined, through an independent review and judgment of the information, that the information fulfills the requirements of Section 56653.

Environmental Determination

The proposal qualifies for an exemption under Section 15319 of the Guidelines for the California Environmental Quality Act – “Annexations of Existing Facilities and Lots for Exempt Facilities.” In the resolution of the Carmel Area Wastewater District supporting the annexation, CAWD concurs in this determination. Attachment 2 contains the draft LAFCO resolution, in which staff recommends that the Commission find this proposal exempt, based on its independent judgment of the application materials and the facts presented.

Agency Comments

LAFCO received two public agency comments on this proposal. Nicole Silva, a Senior Registered Environmental Health Specialist with the Monterey County Department of Health, states in a January 22, 2010 letter that the County supports the Fire Station proposal for three reasons:

1. In the event of a future improvement of the site or septic system, the existing septic system would need to demonstrate compliance with the current Basin Plan and the depth of the current disposal field and small lot size would make onsite compliance unlikely;
2. The number of times the property's septic system is reported to be pumped annually indicates that the system may not be currently functioning in a lawful manner, and
3. In the event that the Fire Station is utilized as an Emergency Operation Center there is a potential that the septic system could be hydraulically overloaded, resulting in failure.

In a February 1, 2010 email, Matthew Keeling, Water Resources Control Engineer of the Central Coast Regional Water Quality Control Board, stated that “we are in favor of additional connections to the existing CAWD collection system within the Carmel Highlands as long as such connections do not interfere with the pending implementation of a Carmel Highlands sewer study and project by Monterey County.”

LAFCO also received correspondence from the following agencies stating that they had no comments: Monterey Bay Unified Air Pollution Control District, Monterey County Sheriff's Office, Monterey County Resource Management Agency (Planning Department).

Agency comments are contained in Attachment 3 to this Executive Officer's Report. Also included within that attachment is a copy of the Carmel Area Wastewater District's Resolution 2010-03 supporting the proposal.

Fees

LAFCO collected a deposit of \$1,900 toward the cost of processing this application. In accord with the LAFCO Fee Schedule, LAFCO will charge the full cost of the processing. Actual costs above the initial deposit will be required to be paid prior to the issuance of the Certificate of Completion, pursuant to a condition of approval.

Recommended Conditions of Approval

The recommended conditions of approval contained in Sections 21 and 27 of the draft resolution (Attachment 2) are:

- a. The applicant shall obtain all necessary County planning approvals required for connecting to the CAWD's wastewater lines.
- b. The proposal is approved subject to the Fire Protection District's payment of all fees incurred in the processing of the application consistent with the LAFCO fee schedule, including the fee required by the State Board of Equalization.
- c. The proposal is approved subject to review and pre-clearance of the annexation by the United States Department of Justice pursuant to Section 5 of the Voting Rights Act.
- d. The proposal is subject to the preparation of a Map and Property Description acceptable to the State Board of Equalization.
- e. The Fire Protection District's indemnification of LAFCO for any court costs and attorneys' fees which may be required by a court to pay as a result of such action.

A Certificate of Completion will be filed after all conditions of approval are met. Section 23 of the draft resolution reiterates the requirements of state law that LAFCO's proceedings on this proposal will be abandoned after one year unless either a) the Certificate of Completion is filed or b) the Commission approves, prior to the end of that year, an extension of time.

Reconsideration

Pursuant to Government Code 56895, after the LAFCO Commission has adopted a resolution making determinations, any person or affected agency may file a written request with the LAFCO Executive Officer requesting amendments to or reconsideration of the resolution. The person or agency shall file the written request within 30 days of the adoption of the resolution by the LAFCO Commission making determinations.

Conclusion

The proposed annexation is consistent with the factors to be considered in the review of a proposal for a Sphere of Influence update and annexation. These factors, and an analysis of the proposal's consistency with them, are included in the attached draft resolution (Attachment 2). Staff, therefore, recommends adoption of the attached Resolution to approve the Sphere of Influence Update and the "Carmel Highlands Fire Station" Annexation to the Carmel Area Wastewater District.

Alternative Actions

The Commission has the following options:

1. Postpone a decision until after the County approves any required Coastal Development Permits; or
2. Deny the requested Sphere of Influence amendment and annexation, in which case the item should be continued to the April 26, 2010 Commission meeting with direction to staff to prepare a new draft resolution based on the Commission's findings for denial; or
3. The Commission may act to modify, delete, or add any findings, determinations or conditions of approval.

Respectfully Submitted,



Kate McKenna, AICP
Executive Officer

Attachments:

- Attachment 1: Location Map
- Attachment 2: Draft Resolution
- Attachment 3: Agency Comments

cc: LAFCO File 10-01
Sanford Veile, Carmel Area Wastewater District
Nicole Silva, REHS, Monterey County Department of Health
Matt Keeling, Regional Water Quality Control Board
Battalion Chief Buddy Bloxham, Carmel Highlands FPD (applicant/property owner)

Attachment 1:

Location Map

AREA = 1.05 ACRES



SCALE: 1" = 100'

SCALE: 1" = 100'

GENERAL SURVEY DATA NOTES



VICINITY MAP

ANNEXATION AREA MAP

2009 HIGHLANDS ANNEXATION
HIGHLANDS FIRE PROTECTION DISTRICT
TO THE CARMEL AREA WASTEWATER DISTRICT
A. PORTION OF PARCEL 244 JAZZ & 245 CHOCOLATE
CLOVER, HIGHLANDS PROPERTY - VOLUME 1, SHERMAN PAGE 43
HIGHLANDS AREA WASTEWATER DISTRICT COUNTY STATE OF CALIFORNIA

MONTEREY BAY ENGINEERS, INC.

[illegible]

305 Ma, 08-089

Attachment 2:
Draft Resolution

RESOLUTION NO. 10 -__

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF
MONTEREY COUNTY MAKING DETERMINATIONS APPROVING THE
CARMEL AREA WASTEWATER DISTRICT – “CARMEL HIGHLANDS FIRE
STATION” SPHERE OF INFLUENCE UPDATE AND ANNEXATION OF A SINGLE
1.0± ACRE PARCEL (73 FERN CANYON ROAD; APN 241-073-002).
(LAFCO File 10-01)**

RESOLVED, by the Local Agency Formation Commission of Monterey County, State of California, that

WHEREAS, an application for the proposed “Carmel Highlands Fire Station” Sphere of Influence Update and annexation of a single 1.0± acre parcel (73 Fern Canyon Road; APN 241-073-002), was filed and accepted for filing by the Executive Officer of this Local Agency Formation Commission, pursuant to Title 6, Division 1, commencing with Section 56000, et seq. of the Government Code; and

WHEREAS, a Certificate of Filing was issued for the application on March 16, 2010; and

WHEREAS, the Carmel Area Wastewater District passed a resolution (#2010-03) dated January 28, 2010, supporting the proposed Sphere of Influence Amendment and Annexation; and

WHEREAS, the affected territory is uninhabited per Government Code Section 56046, and the property owners have consented to the proposed formation and a waiver of protest proceedings and said waiver is on file in LAFCO project file 10-01 and is incorporated herein by reference; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658, set February 22, 2010 as the hearing date on this proposal and gave the required notice of hearing;

WHEREAS, the public hearing by this Commission was held upon the date and at the time and place specified in the notice of hearing and in any order or orders continuing such hearing; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56665, has reviewed this proposal and prepared a report, including recommendations thereon, and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, the purpose for this Sphere of Influence update and annexation is to provide sewer service to a single parcel which is being used consistent with the County of Monterey General Plan and Zoning Ordinance; and

WHEREAS, it has been determined to the satisfaction of the Commission that the landowner included in the proposal consented to this reorganization and a signed "Consent to Inclusion of Property" form reflecting the property owner's intent and that this form is available in LAFCO file 10-01 and is incorporated herein by reference; and

WHEREAS, this Commission, on February 22, 2010 and March 29, 2010, heard from interested parties, considered the proposal and the report of the Executive Officer and considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, factors specified in Government Code Sections 56425(e) and 56668.

NOW, THEREFORE, the Local Agency Formation Commission of Monterey County does HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

Section 1. This proposal is categorically exempt from review under the California Environmental Quality Act under Section 15319: Annexations of Existing Facilities.

Section 2. The affected territory contains fewer than 12 registered voters, which constitutes "uninhabited territory" per Government Code Section 56046, and the landowner consented in writing to the proposal.

Section 3. In determining the Sphere of Influence of the Carmel Area Wastewater District the Commission, in accord with Section 56425(e) of the Government Code, has considered and prepared a written statement of its determinations with respect to each of the following:

- *The present and planned land uses in the area, including agricultural and open-space lands.*

The proposed expansion of the Sphere of Influence includes approximately 1.0± acre on a single parcel. The existing land use is as a fire station. There are no additional planned uses on the property. The proposed addition to the District's Sphere of Influence does not contain agricultural or open space uses, nor are such uses anticipated in the County General Plan.

- *The present and probable need for public facilities and services in the area, and*
- *The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.*

The Monterey County Board of Supervisors adopted a Carmel Highlands Onsite Wastewater Management Plan that includes measures aimed at protecting "groundwater and surface water resources, public health, safety and

welfare, and the environment in general.” This plan includes direction to “conduct engineering feasibility and environmental studies for extension of public sewerage to the Carmel Highlands area as recommended in the Carmel Highlands Onsite Wastewater Management Study.” This plan was developed, following the direction of the Regional Water Quality Control Board, Central Coast Region, to enable the County to address the immediate potential threat to the public health, safety and welfare posed by permitting additional on-site wastewater disposal systems on individual lots in the Carmel Highlands. The Carmel Area Wastewater District is currently at approximately fifty percent of its treatment capacity and so there is adequate capacity to accommodate additional service. Expansion of District’s Sphere of Influence would be environmentally superior to continuing with the existing septic system at the Fire Station, especially because there are signs that the existing system is inadequate. Additionally adequate wastewater capacity is needed at the Fire Station because it is the only public building in the area that could be used by residents during time of emergency or evacuation. The Carmel Area Wastewater District is the only public, or private, utility able to provide for wastewater disposal in the area.

The operations and boundaries of the Carmel Area Wastewater District were reviewed within the Carmel Valley Municipal Service Review which was approved by LAFCO in June 2006. This analysis did not disclose any deficiencies in the services or structure of the District. However, in the “Summary and Determinations” section of the report it is recommended that the Sphere of Influence of the District “should be updated to comprehensively address existing needs in the area. In particular, the coastal areas should be evaluated as smaller individual systems and septic tanks are getting older. The benefits of providing sewer service that complies with State regulations needs to be evaluated against the cost of operating smaller systems.”

- *The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.*

There are no specific social or economic communities of interest in this geographic area that are relevant to the proposal to expand the Sphere of Influence of the Carmel Area Wastewater District.

Section 4. The Commission has hereby reviewed and updated the Sphere of Influence of the Carmel Area Wastewater District as required by Government Code 56425(g). The current proposal for a minor Sphere of Influence amendment is compatible with the existing Sphere of Influence and this Sphere is consistent with the current needs of the community served.

Section 5. *Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years*

(Gov. Code § 56668(a).)

There are no residents associated with the parcel proposed for annexation. The parcel is 1.0± acre in size and is used as fire station. Numerous small drainage basins are in the area and this annexation is near the Pacific Ocean. The nearest population centers are in the City of Carmel and the Monterey Peninsula to the north. Growth in the unincorporated Carmel Highlands is very limited.

Section 6. *The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed ... annexation ... and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas. (Gov. Code § 56668(b).)*

The density of development in the area makes the use of on-site septic systems impractical. The Carmel Area Wastewater District is the only organization in the area capable of providing wastewater service. The affected area is contiguous with a parcel that was conditionally approved for annexation to the Wastewater District, and the District's wastewater line is adjacent to the parcel within the Highway 1 right-of-way. The treatment facility serves the greater Carmel area with more than 6,600 service connections. The proposed expansion will only require a direct connection to the existing wastewater line.

Section 7. *The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county. (Gov. Code § 56668(c).)*

The annexation and the proposed construction of a connection to the existing District wastewater trunk line in Highway 1 in the Carmel Highlands area will have no effect on adjacent properties, or on mutual social and economic interests, or on local governmental structure of the County.

Section 8. *The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377. (Gov. Code § 56668(d).)*

The annexation of the Fire Station parcel to the Carmel Area Wastewater District will help address significant environmental impacts associated with septic system contamination of local wells and the marine environments. Annexation to the District is consistent with LAFCO policies.

Section 56377 pertains to development being directed away from open-space and agricultural land, unless to do so would not promote the planned, orderly, efficient development of an area. The land proposed for annexation is neither designated by the County for an open-space or agricultural use nor is it in any form of agricultural production.

Section 9. *The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined in Section 56106. (Gov. Code § 56668(e).)*

The proposal will have no impact on maintaining the physical and economic

integrity of agricultural lands. The parcel is not designated in the County General Plan for an agricultural use.

Section 10. *The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership; the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries. (Gov. Code § 56668(f).)*

In the context of urban development, the project boundaries are definite and certain and consistent with assessment lines and ownership.

Section 11. *A regional transportation plan adopted pursuant to Section 65080 [of the Government Code] and consistency with city or county general and specific plans. (Gov. Code § 56668(g).)*

The proposed Fire Station Annexation will not change traffic volumes, flows or capacity and therefore is not covered by the Regional Transportation Plan. The Fire Station property is designated "Public/Quasi Public" in Monterey County's Carmel Area Land Use Plan. The current zoning is PQP-D(CZ) which allows for "Public and Quasi-Public" uses with Design Review in the County's Coastal Zone. The use of this parcel for a fire station is compatible with the land use plan and zoning designation and the proposed annexation will not change this land use consistency.

Section 12. *The sphere of influence of any local agency, which may be applicable to the proposal being reviewed. (Gov. Code §§ 56375.5, 56668(h).)*

The site is immediately adjacent to the existing Carmel Area Wastewater District sewer line and to a parcel that has already been conditionally approved for annexation to the Wastewater District. The Fire Station parcel is neither within, nor in close proximity, to the Sphere of Influence of any other governmental body which could support the Fire Station with wastewater services.

Section 13. *The comments of any affected local agency or other public agency. (Gov. Code § 56668(i).)*

No local agency contacted through the LAFCO referral process submitted comments critical of the proposal, nor did any agency suggest changes in the proposal or conditions to its approval. Comments supporting the proposal were received from the Central Coast Regional Water Quality Control Board and the Monterey County Division of Environmental Health.

Section 14. *The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change. (Gov. Code § 56668(j).)*

The Carmel Valley Municipal Services Review has not identified any shortfalls in the District's services or finance. The Review states that the peak flow of the Carmel Area Wastewater District "is equivalent to about 65% of the permitted capacity." In February 2010 District staff informed LAFCO that the peak flow now equals around 50% of permitted capacity, or 1.524 million gallons per day (MGD). This decrease is likely due to water conservation efforts and the recent downfall in

the economy. The annexation would result in approximately 500 gallons per day of additional wastewater. This would constitute a nominal increase in the District's estimated capacity. The Municipal Service Review also states that rates to property owners "are designed to recover projected operation, maintenance, and replacement expenses ... based on their proportional contribution to the total wastewater load." The Carmel Highlands Fire Protection District will also be required to pay applicable hook up fees, sewer user fees, construction costs, and a contribution toward annual payments on a District bond issue.

Section 15. *Timely availability of water supplies adequate for projected needs as specified in Section 65352.5. (Gov. Code § 56668(k).)*

Water supply is a critical issue in the greater Monterey Peninsula area. Development of parcels within the boundaries of the Monterey Peninsula Water Management District depends on the availability of water through an allocation system based on pro-rationing of water within the political jurisdiction. However, in this case there is an existing use on the Fire Station parcel that already has water. No additional water use would be triggered by the proposed annexation.

Section 16. *The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7. (Gov. Code § 56668(l).)*

The proposal involved unincorporated land within the County's land use jurisdiction. The annexation of the Fire Station parcel to a wastewater district will in no way affect the County's ability to achieve, or not achieve, its respective fair share of regional housing needs.

Section 17. *Any information or comments from the landowner or owners, voters, or residents of the affected territory. (Gov. Code § 56668(m).)*

The property owner supports the project and has provided written consent, which has been provided to LAFCO and is incorporated herein by reference. No other comments from voters or residents of the affected territory have been submitted to LAFCO.

Section 18. *Any information relating to existing land use designations. (Gov. Code § 56668(n).)*

The Fire Station property is designated "Public/Quasi Public" in Monterey County's Carmel Area Land Use Plan.

Section 19. *The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services. (Gov. Code § 56668(o).)*

Because of the nature of the project there are no economic justice issues.

Section 20. *The exchange of property tax. (Revenue and Taxation Code § 99.01.)*

A "Zero" Property Tax Transfer was approved by the Monterey County Board of Supervisors on March 16, 2010 (Resolution No: 10-053). A copy of this resolution is on file in the LAFCO office.

Section 21. Said proposal is approved subject to the following terms and conditions:

- a. The applicant shall obtain all necessary County planning approvals required for connecting to the CAWD's wastewater lines.
- b. The proposal is approved subject to the Fire Protection District's payment of all fees incurred in the processing of the application consistent with the LAFCO fee schedule, including the fee required by the State Board of Equalization.
- c. The proposal is approved subject to review and pre-clearance of the annexation by the United States Department of Justice pursuant to Section 5 of the Voting Rights Act.
- d. The proposal is subject to the preparation of a Map and Property Description acceptable to the State Board of Equalization.

Section 22. The Certificate of Completion shall not be issued until all terms and conditions are met.

Section 23. If a Certificate of Completion for a change of organization or reorganization has not been filed within one year after the Commission approves a proposal for that proceeding, the proceeding shall be deemed abandoned unless prior to the expiration of that year the Commission authorizes an extension of time for that completion. The extension may be for any period deemed reasonable to the Commission for completion of necessary prerequisite actions by any party. If a proceeding has not been completed because of the order or decree of a court of competent jurisdiction temporarily enjoining or restraining the proceedings, this shall not be deemed a failure of completion and the one-year period shall be tolled for the time that order or decree is in effect. [Government Code Section 57001]

Section 24. The boundaries of the territory proposed as the Sphere of Influence Update and annexation are hereby approved as described in Exhibit "A" attached hereto and made a part hereof. Said territory is assigned the following distinctive short form designation: "CARMEL AREA WASTEWATER DISTRICT - CARMEL HIGHLANDS FIRE STATION ANNEXATION."

Section 25. The Local Agency Formation Commission is authorizing waiver of its conducting authority as the subject property is uninhabited and the property owners have consented in writing.

Section 26. The Executive Officer is hereby authorized and directed to mail certified copies of this resolution in the manner and as provided in Section 56882 of the Government Code.

Section 27. The applicant agrees as a condition of the approval of this application to defend at their sole expense any action brought against LAFCO, the Commission and its staff, because of the approval of this application. The applicant will reimburse LAFCO for any court costs and attorneys' fees which may be required by a court to pay as a result of such action. LAFCO may, at its sole discretion, participate in the defense of any such action; but such participation shall not relieve applicant of his obligations under this condition. The obligation on the part of the applicant to indemnify LAFCO is effective upon the adoption of this resolution and does not require any further action.

UPON MOTION OF Commissioner _____, seconded by Commissioner _____, the foregoing resolution is adopted this 29th day of March, 2010 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Simón Salinas, Chair
Local Agency Formation Commission of Monterey
County

ATTEST: I certify that the within instrument is a true and complete copy of the original resolution of said Commission on file within this office.

Witness my hand this ____ day of March, 2010

By: _____
Kate McKenna, AICP, Executive Officer

EXHIBIT "A"

LEGAL DESCRIPTION

**2009 Highlands Annexation (Carmel Highlands Fire Protection District)
to the Carmel Area Wastewater District**

That certain real property situate in Rancho San Jose Y Sur Chiquito, in the County of Monterey, State of California, being more particularly described as follows:

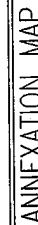
Beginning at a point that bears North 01° 46' 00" East, 201.80 feet from the point labeled C-1 on the C-Survey Line, as said point and line are shown on that certain map entitled, "Map of a Part of Carmel Highlands Property" and filed May 15, 1918 in Volume 1 of Surveys at Page 93, records of Monterey County, California; thence from said point of beginning,

- 1) along said C-Survey Line, South 01° 46' 00" West, 190.74 feet; thence,
- 2) leaving said C-Survey Line, North 79° 25' 00" West, 219.61 feet; thence,
- 3) North 01° 46' 00" East, 12.00 feet; thence,
- 4) North 15° 23' 00" East, 44.20 feet; thence,
- 5) North 11° 02' 00" East, 24.40 feet; thence,
- 6) North 79° 25' 00" West, 62.27 feet to a point on the easterly right-of-way line of State Highway 1; thence,
- 7) along said easterly right-of-way line, North 33° 42' 00" East, 82.89 feet; thence,
- 8) continuing along said easterly right-of-way line, North 25° 12' 00" East, 29.12 feet; thence,
- 9) North 39° 19' 03" East, 42.62 feet; thence,
- 10) leaving said easterly right-of-way line of said State Highway 1, South 69° 24' 00" East, 193.16 feet to said point of beginning.

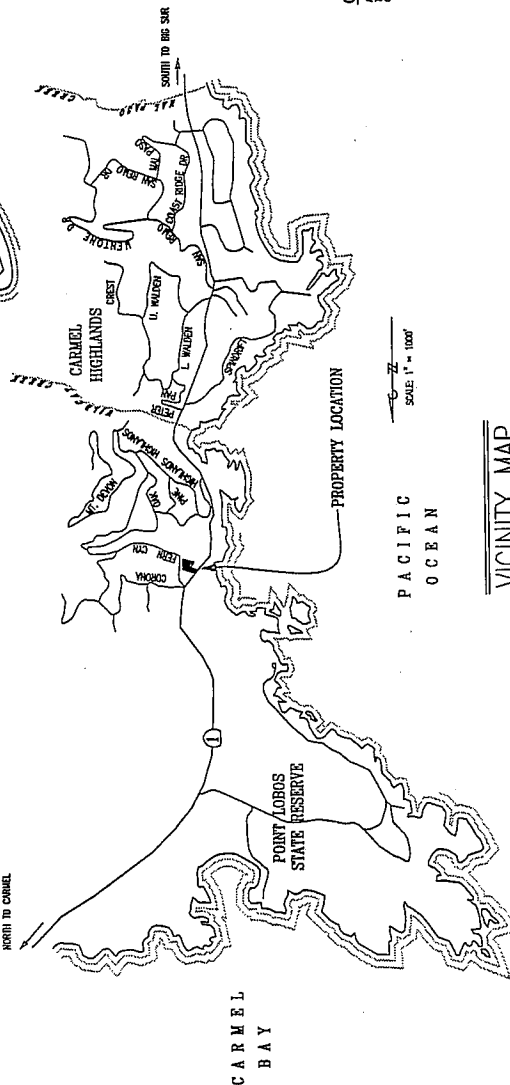
Containing 46,206 square feet or 1.06 acres, more or less.



10/30/2009
EXP. 12/31/2009

AREA = 1.06 ACRES

WORKING TO CARPET



GENERAL SURVEY DATA NOTES

—Z—

PACIFIC OCEAN

VICINITY MAP

REVISIONS	ANNEXATION AREA MAP	
DATE	BY	
<p>2000 HIGHLAND ANNEXATION CLEAR, HIGHLAND FIRE PROTECTION DISTRICT TO THE CARRIBE AREA WASTEWATER DISTRICT</p> <p>A PORTION OF SHEET NO. 222-1-1-1 WAS CHANGED CHARGE HIGHLAND PORTION OF SHEET NO. 222-1-1-1 CHARGE HIGHLAND DIST. TO THE CARRIBE AREA WASTEWATER DIST. STATE OF CALIFORNIA</p>		
<p>MONTEREY BAY ENGINEERS, INC.</p> <p>11</p> <p>BY: [Signature] DATE: 10/1/01</p> <p>FOR: [Signature] DATE: 10/1/01</p>		



U.S. DEPARTMENT OF AGRICULTURE

Attachment 3:
Agency and Organization Comments

MONTEREY COUNTY



DEPARTMENT OF HEALTH LEN FOSTER, Director

ANIMAL SERVICES
BEHAVIORAL HEALTH
CLINIC SERVICES

EMERGENCY MEDICAL SERVICES
ENVIRONMENTAL HEALTH

PUBLIC HEALTH
PUBLIC ADMINISTRATOR/PUBLIC GUARDIAN

January 22, 2010

Mr. Thomas A. McCue, Senior Analyst
Local Agency Formation Commission
132 W. Gabilan Street, Suite 102
Salinas, CA 93902

Re: Carmel Highlands Fire Station Annexation to Carmel Area Wastewater District Proposal

Dear Thom,

Thank you for providing the County of Monterey the opportunity to comment on the Carmel Highlands Fire Protection District's application to annex into the Carmel Area Wastewater District (CAWD) and update CAWD's Sphere of Influence. The County supports the proposal for the following reasons:

1. In the event that a building remodel, building addition or repair to the existing septic system is proposed for the Fire District, the County would require a performance evaluation of the existing septic system to be completed in order to demonstrate compliance with the current Central Coast Water Quality Control Plan (Basin Plan). According to County records, the existing disposal field serving the property is approximately 18' deep. A disposal field of this depth would not likely conform to the current Basin Plan. In addition, the 1-acre property has limited area available that could accommodate future repairs or expansions of the existing septic system. Connecting the property to the sewer at this time is a proactive solution to potential wastewater disposal constraints that could arise in the future.
2. Per the annexation application, the Fire Station's septic system is pumped out every 3 to 6 months (Item 9a). According to Monterey County Code, Chapter 15.20.04.B1, a system that requires the pumping of contents more frequently than twice a year to prevent overflow or other malfunction shall be conclusively presumed to be not functioning in a lawful manner. Though the County has not consulted with the applicant regarding the Fire District's reasoning behind the reported pumping schedule, connecting the property to the public sewer system would remedy the concern.
3. According to County records, the existing septic system was designed to accommodate wastewater generated during typical work function. In the event that the Fire Station is utilized as an Emergency Operation Center, there is potential that the septic system could be hydraulically overloaded, resulting in sewage backing up in the buildings or surfacing on the ground at the tank and/or disposal field.

Annexation of the Carmel Highlands Fire District into CAWD to allow a sewer connection would be a substantial improvement to the current method of wastewater disposal and would provide greater protection of public health and the environment.

In 2007, the Regional Water Quality Control Board alerted Monterey County of the immediate potential threat to public health, safety, and welfare posed by permitting additional OWTS on individual lots in the Carmel Highlands due to the high-density of onsite septic systems and known geological constraints. In response, the County commissioned Questa Engineering Corporation to prepare a detailed study of onsite wastewater management practices in a defined portion of the Carmel Highlands. The Carmel Highlands Onsite Wastewater Management Study was completed in December 2009 and provides basis for the Carmel Highlands Onsite Wastewater Management Plan (OWMP), currently under review from the Central Coast Regional Water Quality Control Board. Upon approval of the Carmel Highlands OWMP, the County will have received official direction to initiate a sewer feasibility study for the Carmel Highlands study area. The feasibility study would include analysis of full and partial sewerage of the Carmel Highlands study area. The County would support additional sewer connections provided the feasibility study determines viable options exist.

If you have any questions, please give me a call at (831) 755-4584.

Thank You,



Nicole Silva, Senior REHS
Environmental Health Division

RWQCB - CHFPD - CAWD Annexation(LAFCO File 10-01).txt
From: Matt Keeling [Mkeeling@waterboards.ca.gov]
Sent: Monday, February 01, 2010 2:52 PM
To: McCue, Thomas A. 754-5838
Cc: LeWarne, Richard x4544; Burton Chadwick;
centralcoast@waterboards.ca.gov
Subject: Carmel Highlands Fire Protection District - CAWD
Annexation(LAFCO File 10-01)

Tom:

We reviewed your January 12, 2010 letter and associated attachments regarding the proposed connection of the Carmel Highlands Fire Station to the Carmel Area Wastewater District (CAWD) wastewater collection system.

We are not opposed to the proposed annexation. We are in favor of additional connections to the existing CAWD collection system within the Carmel Highlands as long as such connections do not interfere with the pending implementation of a Carmel Highlands sewer study and project by Monterey County.

Regards.

MK

Matthew Keeling, P.E.
CRWQCB - Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401
(805) 549-3685
Fax (805) 788-3542

mkeeling@waterboards.ca.gov

RESOLUTION NO. 2010-03

A RESOLUTION OF SUPPORT BY THE CARMEL AREA WASTEWATER DISTRICT (CAWD) FOR THE PROPOSED CARMEL HIGHLANDS FIREHOUSE SPHERE OF INFLUENCE AMENDMENT AND ANNEXATION

-o0o-

WHEREAS, the Carmel Highlands Fire Protection District desires to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with Section 56000 of the California Government Code, for a Sphere of Influence Amendment and annexation to CAWD; and

WHEREAS, the principal reason for the proposed application is to provide sewer service to existing development; and

WHEREAS, the following agency would be affected by the proposed jurisdictional changes:

Agency

Nature of Change

CAWD

Annexation

and;

WHEREAS, the territory to be reorganized is uninhabited, consisting of an existing firehouse at APN 241-073-002; and

WHEREAS, the applicant would be required to pay all CAWD fees and costs; and

WHEREAS, the regular County assessment roll will be used by CAWD to carry taxes and assessments that may be levied within the annexed territory; and

WHEREAS, after the annexation the affected territory will be taxed for any future

bonded indebtedness of CAWD.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Carmel Area Wastewater District, as follows:

1. That this resolution is hereby adopted and approved to demonstrate the District's support of the proposed application to the Local Agency Formation Commission of Monterey County by the Carmel Highlands Fire Protection District.
2. That while the Local Agency Formation Commission will act as the Lead Agency, for purposes of the California Environmental Quality Act, similar applications have been found categorically exempt pursuant to Section 15319 of the CEQA Guidelines as an annexation of existing facilities and exempt small parcels.

PASSED AND ADOPTED at a meeting of the Board of Directors of the Carmel Area Wastewater District duly held on January 28, 2010 by the following vote:

AYES: BOARD MEMBERS: D'Ambrosio, Townsend, Kohn, Siegfried, White

NOES: BOARD MEMBERS: 0

ABSENT: BOARD MEMBERS: 0



President of the Board

ATTEST:



Secretary of the Board